



2011 ASSEMBLY BILL 239

August 30, 2011 - Introduced by Representatives KLEEFISCH, SPANBAUER, A. OTT, TURNER, KNILANS and MURSAU, cosponsored by Senators LAZICH, WANGGAARD and LASSA. Referred to Committee on Criminal Justice and Corrections.

- 1 **AN ACT to create** 301.475 of the statutes; **relating to:** notification requirements
2 for persons who must register as sex offenders and who are on school premises
3 and providing penalties.

Analysis by the Legislative Reference Bureau

Under current law, subject to certain exceptions, a person must register with the Department of Corrections (DOC) as a sex offender if he or she has been convicted of certain sex offenses, found not guilty of certain sex offenses by reason of mental disease or defect, or adjudicated delinquent on the basis of certain sex offenses. The sex offender registry contains specific information about a person required to register (registrant), such as the registrant's name, appearance, offense, address, and place of employment and any school in which the registrant is enrolled. A registrant must also periodically provide updated information to DOC if the information originally provided to the registry changes.

This bill generally prohibits a registrant from being in any school building, on any school grounds, school recreation area, or school athletic field, or on any school property owned, used, or operated for school administration unless the registrant notifies the school.

Because this bill creates a new crime or revises a penalty for an existing crime, the Joint Review Committee on Criminal Penalties may be requested to prepare a report concerning the proposed penalty and the costs or savings that are likely to result if the bill is enacted.

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For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 301.475 of the statutes is created to read:

2 **301.475 Sex offenders to notify schools. (1)** A person who is required to
3 comply with the reporting requirements under s. 301.45 (1g) may not be on any
4 school premises, as defined in s. 948.61 (1) (c), unless the school district clerk, if the
5 premises are affiliated with a public school, or the governing body of the school, if the
6 premises are affiliated with a private school or charter school, has been notified of
7 the specific date, time, and place of the visit and of the person's status as a registered
8 sex offender.

9 **(2)** (a) Except as provided in par. (b), whoever knowingly violates sub. (1) is
10 guilty of a misdemeanor and subject to a fine of not more than \$10,000 or
11 imprisonment not to exceed 9 months, or both.

12 (b) Whoever knowingly violates sub. (1) as a 2nd or subsequent offense is guilty
13 of a Class H felony.

14 **(3)** Subsection (1) does not apply to the following:

15 (a) A person who is on the school premises to vote if an election is being held
16 that day and the person's polling place is on the school premises.

17 (b) A person who is on the school premises to attend an event or activity that
18 is not sponsored by the school.

19 (c) A person whose child is enrolled at the school if the person notifies the school
20 district clerk, if the premises are affiliated with a public school, or the governing body
21 of the school, if the premises are affiliated with a private school or charter school, that

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1 he or she is a registered sex offender and that he or she has a child enrolled at the
2 school. The notification must occur as follows:

3 1. Except as provided in subds. 2., 3., and 4., at the beginning of each academic
4 school year.

5 2. If the child is not enrolled at the beginning of the academic school year, when
6 the child is first enrolled.

7 3. If the person is not subject to the reporting requirements under s. 301.45 (1g)
8 at the beginning of the academic school year or when the child is first enrolled, when
9 the person first becomes subject to the reporting requirements under s. 301.45 (1g).

10 4. If subd. 1., 2., or 3. does not apply but the person is otherwise subject to the
11 prohibition under sub. (1), when the person becomes subject to the prohibition under
12 sub. (1).

13 (4) The department shall make a reasonable attempt to notify each person
14 required to comply with the reporting requirements under s. 301.45 (1g) of the
15 prohibition under sub. (1), but neither the department's failure to make such an
16 attempt nor the department's failure to notify a person of that prohibition is a defense
17 to prosecution under this section.

18 (5) It is an affirmative defense to a prosecution under this section that the
19 defendant was traveling directly to the office of the school district clerk, if the
20 premises are affiliated with a public school, or to the governing body of the school,
21 if the premises are affiliated with a private school or charter school, to comply with
22 sub. (1). A defendant who raises this affirmative defense has the burden of proving
23 the defense by a preponderance of the evidence.

24 (6) The school district clerk, if the premises are affiliated with a public school,
25 or the governing body of the school, if the premises are affiliated with a private school

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SECTION 1

1 or charter school, is immune from any civil or criminal liability for any good faith act

2 or omission in connection with any notice given under sub. (1).

3 (END)